

Peter: Okay, it's seven past one. Our next guest from Freedman, [Lurising 00:00:06] and DeAngelo is Portia Jonasi. Hi Portia.

Portia: Hi, how are you going Peter?

Peter: Excellent this afternoon. Thanks for coming in. We've enjoyed having all the guys from Freedman, Lurising and DeAngelo and now it's your turn. We look forward to that. You're involved with family law, why did you choose family law as your area of expertise, Portia?

Portia: I think coming out of uni it was the most interesting area that I found and I just found it more enjoying [00:00:30] and more rewarding and that's why I choose that area of law to practice.

Peter: Okay. If you've got a question for Portia, ring in now and this usually fills up very, very quickly, 92211882. Now most people when they think of family law would think that it must be challenging at times. You're dealing with people who are in an emotional state, fouled relationships, how do you approach that? Is it tough I guess, is the question that I'm asking you, constantly dealing with people who are in emotional [00:01:00] states or sad about the developments in their life?

Portia: I think the one thing that I always say to people is they're coming to see me because I'm the independent third party who's going to look into their relationship and give them sound advice without the emotions. You do get one or two cases that emotionally impact you, but you try not to carry that home with you so you try to leave it at the office door, go home and spend the night and just not think about it. Otherwise it will burden you because there's just so many [00:01:30] different types of matters and crisis.

Peter: We're with Portia Genassee from Freedman, Lurising and DeAngelo. We're talking family law, if you'd like to ask Portia a question. 92211882 is the number to call. Similarly Portia, from time to time it must be also very gratifying and rewarding when you help someone who is really desperate for help and help them make that next step in their life by getting some closure and getting some settlement to the predicament that they're in.

Portia: That's right, that's right. Most of the times [00:02:00] when I meet with clients I say, we're here to help you to try and resolve this and so that you can actually move on with your life, so that you're not constantly thinking about this and carrying this for the rest of your life. If we can organize a quick settlement for you or organize your children's issues as quickly as possible, that's what we try and do.

Peter: Okay Portia, what are some of the things that you might want to talk about just to give a bit of a prompt for the callers today?

Portia: I would like to talk about probably separation. You've separated so that the question is, do I need to actually move out of the family [00:02:30] home? It's not really a legal question but it actually has bearing upon the actual substantive legal matters and how they will actually progress through the family court.

Peter: Okay, look forward to having that conversation with you, because I guess the initial reaction in many cases would be okay, let's get some separation, physical separation first and foremost and I would imagine that some people don't think through the ramifications of that physical separation clearly and we understand why with everything they're going on but it's really important [00:03:00] that people do actually make a plan and contemplate all the ramifications.

Portia: Yes, that is correct. Okay, 92211882, we're with Portia Genassee from Freedman, Lurising and DeAngelo, give us a call if you've got a question regarding family law, settlements, separation, anything along that line like Peter in Janebrook. Welcome Peter.

Peter (caller): Welcome Portia, Peter, just a very quick question and I'll hang down. Years ago I had a separation with an ex-wife of mine who was wheelchair [00:03:30] bound and at that point obviously the court worked very much in her favor, but there was spousal maintenance to pay. This spousal maintenance was over and above any kind of other child support or payments, however, many years down the track now she's been successful in a claim through the courts and they have had a settlement, I would just like to know your views on whether, I feel I have moved on since then but I feel that there's a lot owing [00:04:00] to me at the same time, in the fact that I paid spousal maintenance for many years above the child support. If I can [inaudible 00:04:07] what you're saying.

Peter: No worries Peter, great question. Sorry Portia, we didn't have your headphones on there for the start of it. That's a very good question that Peter has come through with. He's given child support and spousal maintenance for a number of years and then later on, we don't have the timeframe there, but his ex-wife has received a payment through a court settlement, it sounded like. What's the court's [00:04:30] view there? Is Peter entitled possibly to some sort of reimbursement or is that done and dusted?

Portia: Well that's actually a very interesting question. I've actually just done some recent research on it, so based upon the Family Law Act, she can apply to get that settlement through spousal maintenance, but what I would say to you Peter is you actually need to go see a lawyer if you want a specific answer about your specific question because it is actually unique because there's more to it

than what you've actually just said to me just now. [00:05:00] For example, what was the order for? Did the order last until she was 60 years old, for example, the order for spousal maintenance? What actually happened when you went to court? What did the magistrate decide, and what did the magistrate say about it? You'd probably actually need to go see somebody about that.

Peter: Okay, well that's the best advice that you can give, so Pete, you need to go and get some legal advice on that. It's very difficult for us to give you anything more than that here with only the basic sort of framework that you have given us, but [00:05:30] sort of broadly speaking, it is worth Peter's time to go and get some advice?

Portia: Yes, that is correct.

Peter: Okay, if you've got a question for Portia Genassee, 92211882. Well we're going to talk, Portia, about separation. You've had a relationship break down, you're considering whether to leave the home or not, what are some of the considerations that you have to contemplate in that situation?

Portia: The most important thing that people need to consider is the financial impact, because you're moving out of either a two income household to [00:06:00] a one income household and in some circumstances a person's, one or two or both of you need to get Centrelink to help you through paying of the bills. You need to consider who's going to be paying the mortgage, who's going to be paying rent, the utility bills, it's the small details that actually get lost in the big emotion of we're separated, we now need to move out.

Peter: How do you do that? I mean, let's assume that you're not on the greatest of talking terms, how do you facilitate [00:06:30] that discussion because you're talking about big ticket items generally, but at the same time Portia, you've mentioned, well someone's got to be paying for the gas, the water, the electricity, those sorts of bills, the phone bills for example.

Portia: That's right.

Peter: What's the best way to facilitate that if you're not on the best of speaking terms in your relationship?

Portia: I think the best way forward would be to try and get a third party to come in and sit down with you and work out, because these are small minute details. When we're talking about the bigger ticket items like the family home and the car, [00:07:00] then I would need to say you need to go get legal advice to find out what the law says about it, but if you're talking about the utility bills and the mortgage repayments, I think you can work these things out because what

people forget is you were actually in a relationship and for one part of your relationship you were in love, so you can still kind of sit together and try and work this out as amicably as possible.

Peter: In your experience, Portia, have you found that people haven't contemplated the dwindling net asset [00:07:30] pool when they come up to an arrangement as far as one or other of the partners will leave the relationship and leave the house, set up a flat, unit, house somewhere else, which is very expensive. Have you found in your experience that people haven't thought about what the financial impact of this move will be?

Portia: Oh most certainly, most certainly. I mean, the question I get asked the most is who's going to be paying the mortgage? When I'm paying rent somewhere else I can't be paying the mortgage. The answer is that if you are on [00:08:00] the mortgage documents, you're entitled to pay that mortgage so if both of you are on it, you both have to pay it, but there's obviously some legal issues about the fact that he's paying rent somewhere else or how can he contribute to the mortgage, so again, I would say you need to find out what the law says about your particular circumstance.

Peter: Okay, fascinating. We're with Portia Genassee from Freedman, Lurising and DeAngelo. We're talking about family law, we're talking about separation. You might divorce, you might have a financial [00:08:30] settlement, property settlement, you might have a question. 92211882. We'll be back in just a moment.